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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,212	08/10/1999	RONALD A. KATZ	245/099	8956

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EXAMINER

WOO, STELLA L

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/371,212

Applicant(s)

KATZ, RONALD A.

Examiner

Stella L. Woo

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 51-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-111 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 1, 2004 has been entered.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 108 and 110 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claims 108 and 110 recite providing video data from "the select vendor or vendors." However, the specification describes the video as being provided to the buyer from a video file server at the central location, not from the vendor or vendors (see page 8, second paragraph; page 24, second paragraph).

The specification lacks support for the above-mentioned features in claims 108 and 110.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 51-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. (US 5,727,164, hereinafter "Shavit") in view of Kaye et al. (US 5,727,164, hereinafter "Kaye"), and further in view of Foster et al. (US 4,897,867, hereinafter "Foster").

Shavit discloses a method of telephonically using a traffic control system (interactive market management system) for communication involving a buyer terminal (buyer 62) and at least one vendor terminal (distributors 83 or suppliers 84) for consummating sales transactions (processing business transactions; Abstract), the method including the steps of:

establishing telephonic communication from a buyer terminal to receive a buyer request (a buyer can submit a request for quotation (RFQ) over the public telephone system; col. 11, lines 39-51; col. 12, line 54 - col. 13, line 10);

indicating a transaction (the RFQ includes the goods or services desired by the buyer; col. 12, line 63 - col. 13, line 9);

establishing telephonic communication with at least one vendor terminal to transmit the buyer request (the RFQ data is transmitted to a distributor for authorization, resulting in a bid released to the buyer for conversion to a purchase order; col. 13, lines 29-34; col. 13, line 54 - col. 14, line 9); and

making a record regarding transactions for billing purposes (orders are recorded for payment processing; col. 8, line 55 - col. 9, line 42; col. 14, lines 33-62).

Shavit differs from the claims in that it does not specify the buyer request as including a specified purchase price. However, Kaye teaches the desirability of allowing a buyer to specify a maximum purchase price as part of the desired product information (col. 4, lines 11-20; col. 5, line 53 - col. 6, line 2) in order to locate a vendor willing to sell the desired product at a minimum cost. Since Shavit is similarly directed to providing buyers with access to multiple vendors, it would have been obvious to an artisan of ordinary skill to allow a buyer to include a desired purchase price as part of the buyer request, as taught by Kaye, within the request for quotation of Shavit in order to locate a vendor willing to sell the desired product at minimum cost. The combination of Shavit and Kaye differs from claims 51-79 in that it does not specify utilizing data which includes a check digit and qualifying the buyer at least in part based on the check digit. However, the Shavit system does require a buyer to enter an authorized user ID and password prior to receiving access to the system (col. 11, lines 39-47), and Foster teaches the well known use of a check sum digit for verifying an entered number (col. 7, lines 54-65) such that it would have been obvious to an artisan of ordinary skill to use a check sum digit, as taught by Foster, within the combination of Shavit and Kaye in order to verify the number of digits entered by the user as being the expected number of PIN digits.

5. Claims 80-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Shavit and Kaye, and further in view of Smith (US 5,450,123).

Shavit discloses a method of telephonically using a traffic control system (interactive market management system) for communication involving a buyer terminal (buyer 62) and at

Art Unit: 2643

least one vendor terminal (distributors 83 or suppliers 84) for consummating sales transactions (processing business transactions; Abstract), the method including the steps of:

establishing telephonic communication from a buyer terminal to receive a buyer request (a buyer can submit a request for quotation (RFQ) over the public telephone system; col. 11, lines 39-51; col. 12, line 54 - col. 13, line 10);

indicating a transaction (the RFQ includes the goods or services desired by the buyer; col. 12, line 63 - col. 13, line 9);

establishing telephonic communication with at least one vendor terminal to transmit the buyer request (the RFQ data is transmitted to a distributor for authorization, resulting in a bid released to the buyer for conversion to a purchase order; col. 13, lines 29-34; col. 13, line 54 - col. 14, line 9); and

making a record regarding transactions for billing purposes (orders are recorded for payment processing; col. 8, line 55 - col. 9, line 42; col. 14, lines 33-62).

Shavit differs from the claims in that it does not specify the buyer request as including a specified purchase price. However, Kaye teaches the desirability of allowing a buyer to specify a maximum purchase price as part of the desired product information (col. 4, lines 11-20; col. 5, line 53 - col. 6, line 2) in order to locate a vendor willing to sell the desired product at a minimum cost. Since Shavit is similarly directed to providing buyers with access to multiple vendors, it would have been obvious to an artisan of ordinary skill to allow a buyer to include a desired purchase price as part of the buyer request, as taught by Kaye, within the request for quotation of Shavit in order to locate a vendor willing to sell the desired product at minum cost.

Art Unit: 2643

The combination of Shavit and Kaye differs from claims 80-106 in that although it provides for allowing subscriber access to a variety of data base services (col. 5, lines 58-65; col. 7, lines 6-46), it does not specify communication video. However, Smith teaches the desirability of allowing buyer access to a vendor supplied video image stored in a video file server (video source and database 6) for enhancing sales communication with the use of video (col. 1, line 51 - col. 3, line 27) as well as including a camera at the agent's terminal so that direct, real-time, point-to-point video communication can take place between a customer and the representative (col. 3, lines 26-27; col. 4, lines 25-28; moving pictures are communicated via AT&T 2500 video telephone sets, col. 1, lines 27-28) such that it would have been obvious to an artisan of ordinary skill to incorporate such use of dynamic, full-motion video, as taught by Smith, within the method of Shavit in order to allow a buyer to view the desired goods or services as well as real-time video communication between the customer and representative. Smith provides for prompts to view an available video (col. 2, lines 53-56; col. 4, lines 45-50) and providing client specific video (col. 5, lines 48+).

The examiner further takes Official Notice that it is old and well known in the art at the time of invention to provide for freeze-frame and high resolution video capability in a video communication system such that it would have been obvious to an artisan of ordinary skill to incorporate such well known video features within the combination of Shavit, Kaye, and Smith in order to allow for a higher quality video reception.

6. Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit in view of Smith.

Shavit discloses a method for enabling communications, comprising the steps of:

Art Unit: 2643

establishing an interface (a buyer can submit a request for quotation (RFQ) over the public telephone system; col. 11, lines 39-51; col. 12, line 54 - col. 13, line 10);

receiving an storing data (the RFQ includes the goods or services desired by the buyer; col. 12, line 63 - col. 13, line 9);

selectively selecting the responding vendor site (the RFQ data is transmitted to a distributor for authorization, resulting in a bid released to the buyer for conversion to a purchase order; col. 13, lines 29-34; col. 13, line 54 - col. 14, line 9).

Shavit differs from claims 80-106 in that although it provides for allowing subscriber access to a variety of data base services (col. 5, lines 58-65; col. 7, lines 6-46), it does not specify communication video. However, Smith teaches the desirability of allowing buyer access to a vendor supplied video image stored in a video file server (video source and database 6) for enhancing sales communication with the use of video (col. 1, line 51 - col. 3, line 27) as well as including a camera at the agent's terminal so that direct, real-time, point-to-point video communication can take place between a customer and the representative (col. 3, lines 26-27; col. 4, lines 25-28; moving pictures are communicated via AT&T 2500 video telephone sets, col. 1, lines 27-28) such that it would have been obvious to an artisan of ordinary skill to incorporate such use of dynamic, full-motion video, as taught by Smith, within the method of Shavit in order to allow a buyer to view the desired goods or services as well as real-time video communication between the customer and representative.



***Response to Arguments***

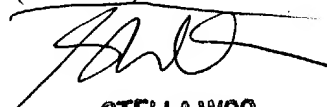
7. Applicant's arguments filed September 1, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Shavit, Kaye, Smith and Foster are nonanalogous art, it has been held that a prior art references must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, each of the four references relate to a system which provides communication involving a customer terminal, as is the case with applicant's invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**STELLA WOO**  
**PRIMARY EXAMINER**